

### **III. REMARKS**

Claims 1-2 and 16-23 are rejected under 35 U.S.C. 1023(e) as being anticipated by Leon.

Independent claims 1, 16 and 20 all recite that the location of the device is transmitted or communicated to the system. The Examiner has cited column 2, lines 9-10 for this feature. However, the fact that a user interface and communication with a funding agency are mentioned is not a clear express or inherent disclosure of transmitting or communicating location, which is required for a proper anticipation rejection; see Continental Can Co. USA Inc. v. Monsanto Co., 20 USPQ 2d 1746, 1749.

Claim 1 also cites ". . . said previously stored location", which is not in Leon.

Regarding claim 23, Leon teaches away from anything that would presuppose the claimed "predetermined digital coded sequence" in favor of Public Key Cryptography, whereby neither a server nor device contains "predetermined digital coded sequences" that can be intercepted and compromised by a fraudulent third party.

For all of the above reasons, the rejection of claims 1-2 and 16-23 should be withdrawn.

It is also noted that Leon teaches away from transmitting or communicating device location by teaching "authorization" of any type as it relates to:

1. printing (col. 2, line 54) and claim 14 and 20;
2. funding agency message (col. 3, line 17-);
3. funds request (col. 3, line 17-22);

4. payment authorization (col. 8, line 9);
5. payment related and message security (col.10, lines 19-58) and claim 21.

Thus these claims are not obvious in view of Leon; see Gillette Co. v. S.C. Johnson & Sons, Inc., 16 USPQ 2d 1923, 1927.

Claims 3-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leon (in further view of Naclerio).

Nowhere in Naclerio can be found teachings related to identifying the location of a device or predetermined location information stored in a device. Naclerio teaches the capability of using a "Postal Security Device" to store more than one [permission to dispense funds] license or a license that accommodates more than one "Postal Security Device". Neither of these teachings relate to the need to know or actually knowing the physical location of the related "Postal Security Device(s)". Naclerio teaches away from any knowledge for the need to know "Postal Security Device" locations. Rather Naclerio teaches the use of and application of one or more licenses imbedded in a "Postal Security Device" or a single license usable by more than one "Postal Security Device". Said licenses have no bearing on the physical location of the device. Instead Naclerio's teachings relate to the authorization of a device to dispense funds based upon a valid license, said license having no relationship to the physical location of said device.

Thus even if Naclerio is combined with Leon, the result is not the present invention. Hence the rejection of claims 3-11 and 15 on this combination of references should be withdrawn.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leon in further view of Naclerio in further view of Valentine.

Similarly, Valentine does not disclose transmitting or determining location. Thus combining it with Leon and Naclerio does not result in the present invention. Hence the rejection of claims 12-14 should be withdrawn.

Regarding claim 13, it is respectfully submitted that Valentine does not teach "a method wherein said device is associated with a position determining apparatus". Rather, Valentine discloses a cellular telephone which may be allowed to operate or is disabled based upon its location. There is no 'other' device in a direct relationship with the cellular telephone. In particular, there is no "Postal Security Device" plugged into, or communicating with, the Valentine invention.

For this additional reason, claim 13 is patentable.

For all the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicant's attorney at the telephone number below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

Henry Steckler

Reg. No. 24,139

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512

Aug 31 2005

Dated



#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 8/31/05

Signature: James Belonoha  
Person Making Deposit